

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GUSTAVO ADRIAN PRIEGO,  
Plaintiff,  
v.  
SULLIVAN, et al.,  
Defendants.

Case No. [14-cv-02366-JD](#)

**ORDER DENYING MOTION TO STAY  
AND MOTION TO APPOINT COUNSEL**

Re: Dkt. Nos. 39, 41

Plaintiff, a state prisoner, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. On March 9, 2015, the Court ordered service and informed plaintiff that discovery would proceed in accordance with the Federal Rules of Civil Procedure and no further Court order was required. On June 8, 2015, defendants filed a motion for summary judgment. Plaintiff has not yet filed an opposition but has filed a motion to stay the motion for summary judgment while he completes discovery. Plaintiff does not describe specifically what discovery he requires and if it is forthcoming. He only states he requested it on March 18, 2015. Plaintiff has filed no motions to compel.


The motion to stay (Docket No. 39) is **DENIED**. If plaintiff seeks to pursue discovery that he has properly requested but not received, he may file a motion to compel by **July 31, 2015**, describing his request and why he needs the discovery, defendants' answer to the requests, and why the answer was insufficient. If plaintiff does not file a motion to compel, he must file an opposition by **July 31, 2015**. Failure to file an opposition by that date may result in the dismissal of this action.

Plaintiff has also requested the appointment of counsel. The Ninth Circuit has held that a district court may ask counsel to represent an indigent litigant only in "exceptional circumstances," the determination of which requires an evaluation of both (1) the likelihood of

1 success on the merits, and (2) the ability of the plaintiff to articulate his claims pro se in light of  
2 the complexity of the legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.  
3 1991). Plaintiff appears able to present his claims adequately, has not identified any undue  
4 impediment to his ability to prosecute them, and the issues are not complex. Therefore, the  
5 motion to appoint counsel (Docket No. 41) is **DENIED**.

6 **IT IS SO ORDERED.**

7 Dated: July 10, 2015

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JAMES DONATO  
United States District Judge

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**CERTIFICATE OF SERVICE**

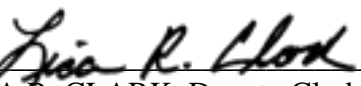
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 10, 2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Gustavo Adrian Priego ID: P-87815  
P.O. Box 7500  
Crescent City, CA 95532

Dated: July 10, 2015

Richard W. Wieking  
Clerk, United States District Court

By:   
LISA R. CLARK, Deputy Clerk to the  
Honorable JAMES DONATO